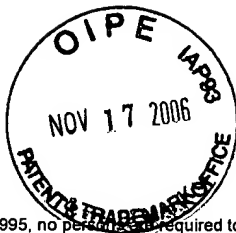


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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) LEM1.P946 | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>November 13, 2006</u> Signature <u>[Signature]</u> Typed or printed name <u>Jo Ann Breen</u> | | Application Number 09/746,947 Filed 12/21/2000 First Named Inventor Marc Lemchen Art Unit 2152 Examiner D. Doan | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> | | | |
| I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>27,123</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | | <div style="text-align: center;"> Signature <u>DANIEL L. DAWES</u> Typed or printed name </div> <div style="text-align: center;"> <u>949-223-9600</u> Telephone number </div> <div style="text-align: center;"> <u>November 13, 2006</u> Date </div> | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*. | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The following is a concise listing of the-

- . clear errors in the examiner's rejections; or
- . the examiner's omissions of one or more essential elements needed for a prima facie rejection.

Note the emphasized portions of the independent claims 1, 13, 25 and 26.

1. A biofeedback system in a computer network **for treating stress** in a user of the computer network comprising:

a program controlled computer coupled to the computer network for executing a program to generate a modifiable schedule of **stress reduction exercises** personalized to the user and which stress reduction exercises are to be performed by the user interactively through use of the computer, the computer receiving biofeedback input from the user, the program controlled computer monitoring compliance by the user with the schedule of **stress reduction exercises**, the schedule being modifiable according to the compliance of the user with the schedule, according to the performance of the user in the **stress reduction exercises**, according to **situational events** to which the user is subjected, according to biofeedback from the user during performance of the **stress reduction exercises** or at times other than during the performance of the **stress reduction exercises**, according to information input into the computer by the user relating to **personalized stress characteristics of the user**, and/or according to information input into the computer by the user relating to **personalized stress related history of the user**, and

at least one sensor to sense body stress signals from the user to provide the automatic biofeedback input to the computer, the **body stress signals** being communicated to the computer.

13. A method of **reducing stress** using a computer network comprising:
automatically inputting **personal stress factors** relating to a user from sensors through a user's client computer coupled to the computer network;
receiving **body stress signals** from the user through the user's client computer;

generating a modifiable schedule of **stress reducing exercises** personalized to the user and to be performed interactively by the user by use of the computer based on the **personal stress factors** relating to the user;
monitoring compliance by the user with the schedule of **stress reduction exercises** on the user's client computer; and

modifying the schedule according to the compliance of the user with the schedule, according to the performance of the user in the **stress reduction exercises**, according to situational events to which the user is subjected, according to biofeedback from the user during performance of the **stress reduction exercises** or at times other than during the performance of the stress reduction exercises, according to information input into the computer by the user relating to **personalized stress characteristics of the user**, and/or according to

information input into the computer by the user relating to **personalized stress related history of the user**.

25. A biofeedback system in a computer network for **treating stress in a user** of the computer network comprising:

a program controlled computer coupled to the computer network for executing a program to generate a dynamically modified schedule of **stress reduction exercises personalized to the user** and which **stress reduction exercises** are to be performed by the user interactively through use of the computer, the computer receiving biofeedback input from the user, the program controlled computer monitoring compliance by the user with the schedule of **stress reduction exercises**, the schedule being modified according to the compliance of the user with the schedule, **user's stress status**, and/or user performance, and

at least one sensor to sense **body stress signals** from the user to provide the automatic biofeedback input to the computer, the **body stress signals** being communicated to the computer.

26. A method of **reducing stress** using a computer network comprising:
automatically inputting **personal stress factors** relating to a user from sensors through a user's client computer coupled to the computer network;
receiving **body stress signals** from the user through the user's client computer;

generating a modifiable schedule of **stress reducing exercises** personalized to the user and to be performed interactively by the user by use of the computer based on the **personal stress factors** relating to the user;

monitoring compliance by the user with the schedule of **stress reduction exercises** on the user's client computer; and

modifying the schedule according to the compliance of the user with the schedule, **user's stress status** and/or user performance.

The Examiner cited references wherein physical exercise systems were controlled using biofeedback. A physical exercise system is used to exercise muscular systems or cardio-pulmonary performance and not to monitor indicator of emotional or mental stress, nor are the physical exercises emotional or mental stress reduction exercises.

Claims 1 and 13 were rejected as being anticipated by Douglas et al US Patent 6,039,688. Douglas was cited as providing stress management to an appropriate group of users (Col. 5, lines 52-60) by using a so called "virtual coach" (Col. 5, line 60 - Col. 6. line 67) and an exercise level or stress management by correlating user information (Col. 7. lines 15- 37).

Douglas is not a computer feedback system used for stress reduction. To the extent that stress management is addressed by Douglas at all, it involves enrolling the individual in a conventional physical exercise and stress reduction behavioral modification during daily living and not while communicating with the system through the computer. Douglas makes reference to FIG. 9, or a village

tranquility park 72 which focuses

“ . . . on stress management strategies, including relaxation techniques, biofeedback, yoga, and meditation. Upon entering the park 72, a user may access and print articles on stress management subjects; view video clips or listen to audio clips on these subjects; and join discussion groups via a bulletin board.”

What constitutes “biofeedback” is not disclosed anywhere in Douglas nor mentioned again in the specification, and is thus not enabled. Stress reduction exercises 328 are mentioned without explanation, and more importantly without any suggested or disclosed use of the computer to actually perform any of the stress reduction exercises 328. None of the cited sections of Douglas address use of the computer to actually perform the stress reduction exercises in an interactive manner.

Therefore, it is clear error to contend that Douglas anticipates each and every element of claims 1 and 13.

Claims 1 and 13 were rejected under as being anticipated by Heikkila et al US Patent 6,428,476. The Examiner cites Heikkila as teaching a stress reduction system using a computer and coupled to a network (Fig. 5). The Examiner contends that the computer is capable of generating personalized exercise program from each individual exerciser and receiving stress signal input from the exerciser (Col. 9, lines 9-43).

Heikkila is generally cumulative to Douglas in that it discloses a computer generated physical exercise fitness program. Heikkila never mentions stress nor any treatment of it, but is solely directed to disclosures including physical fitness. Heart rate is measured through the computer only for the purposes of evaluating the cardiac fitness of the physical exercise and not any type of mental/emotional exercise through interactive feedback through the computer itself, which is automatically monitoring or tailoring the stress reduction behavior at the same time. Heikkila does not address any use of a computer to actually perform the stress reduction exercises in an interactive manner.

Therefore, it is clear error that Heikkila anticipates each and every element of claims 1 and 13.

Claims 1, 13, 25 and 26 are distinguished over the art by controlling the schedule of stress reduction exercises performed through use of the computer by monitoring compliance by the user with the schedule of stress reduction exercises, and modifying **the schedule of stress reduction exercises itself** according to the:

- compliance of the user with the schedule,
- performance of the user in the stress reduction exercises,
- situational events to which the user is subjected,
- biofeedback from the user during performance of the stress reduction exercises or at times other than during the performance of the stress reduction exercises,
- information input into the computer by the user relating to personalized stress characteristics of the user, and/or

- information input into the computer by the user relating to personalized stress related history of the user.

Thus, a dynamic, personalized and comprehensive stress reduction therapy is made available to any computer user worldwide through an internet connection, including particularly the workplace computer where many office workers spend increasing amounts of time and where stressful situations can develop and fester over the course of time, if not immediately and therapeutically, repetitively treated at the time and at the site of the stress creation.